

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CHYONNE HICKS,

Plaintiff,

-against-

LONG BEACH POLICE DEPARTMENT, *et al.*,

Defendants.
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ROSLYNN R. MAUSKOPF, United States District Judge:

**ORDER ADOPTING REPORT
AND RECOMMENDATION**
18-CV-3274 (RRM) (AYS)

In a *sua sponte* report and recommendation dated September 30, 2020 (the “R&R”), Magistrate Judge Shields recommended that this action be dismissed, with prejudice, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. The R&R directed defendants’ counsel to serve a copy of the R&R on the *pro se* plaintiff by both overnight mail and first-class mail and to file proof of service on the docket sheet by October 2, 2020. The R&R also advised plaintiff that any written objections to the R&R had to be filed with the Clerk of Court within fourteen days of service of the R&R and warned that his failure to file timely objections or a timely request for an extension of time to do so would preclude further review of the R&R by this Court or the Court of Appeals.

Due to an inadvertent error caused by COVID-19 related layoffs and personnel changes at defendants’ law firm, defendants did not serve the R&R on plaintiff until January 15, 2021. To date, neither party has filed any objections. Accordingly, pursuant to 28 U.S.C. § 636(b) and Rule 72 of the Federal Rules of Civil Procedure, the Court has reviewed the R&R for clear error and, finding none, adopts the R&R in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007). This action is dismissed, with prejudice, pursuant to Rule 41(b).

The Clerk of Court is respectfully ordered to enter judgment in favor of defendants in accordance with this Order and to close this case. Defendants' counsel is respectfully directed to mail a copy of that judgment and this Order to plaintiff and to note that mailing on the docket sheet. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore *in forma pauperis* status is denied for purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444–45 (1962).

SO ORDERED.

Dated: Brooklyn, New York
September 30, 2021

Roslynn R. Mauskopf
ROSLYNN R. MAUSKOPF
United States District Judge